IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Chapter VIII, Rule 32(2) (b)
Description of case

Civil Writ Petition No. 1175 of 2003 (S/S)

Daya Ram Singh …… Petitioner.

Versus

Supdt. Engineer and another ……. Respondents.

With

Civil Writ Petition No. 842 of 2004 (S/S)

Pawan Kumar ……... Petitioner.

Versus

State and another …… Respondents.

Date of decision: 06 October, 2004

For the approval of:

Hon'ble Mr. Justice P.C. Pant.

- Whether the order/judgment should be sent to the reporters for reporting?

- Whether the reporters be allowed to see the
- judgment?

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1175 (S/S) OF 2003

Daya Ram Singh S/o Mr. Kewal Singh,
C-293 New Colony, Kalagarh …….Petitioner.

Versus

1. Office of superintending Engineer Ramaganga Dam Division Kalagarh, District Pauri Garhwal.
2. State of Uttar Pradesh through its Chief Secretary, Secretariat, Lucknow. ……..Respondents.

Mr. Gopal Narian/ Alok Singh, learned counsel for the petitioner.
Mr. S.P.S. Panwar, learned Sr. S.C. for the respondents with Smt. Beena Pande, learned S.C. (U.P.).

WITH

WRIT PETITION NO. 842 (S/S) OF 2004.

Pawan Kumar a/a 30 years, S/o Sri G.Singh,
C/o Sri Mahesh Singh, C 138 New Colony,
Kalagarh, Distt. P.Garhwal. …….Petitioner.

Versus

1. State of Uttar Pradesh, through the Secretary, Irrigation Civil Secretariat, Lucknow.
2. Superintendent Engineer, Ram Ganga Dam Division, Kalagarh, Pauri Garhwal. …….Respondents.

Mr. Subhash Upadhyaya, learned counsel for the petitioner.
Mr. S.P.S. Panwar, learned Sr. C.S. for the respondents with Smt. Beena Pande, learned S.C. (U.P.)

Hon'ble Prafulla C.Pant, J.

1. These two writ petitions have arisen out of same examinations/tests for the post of Electrician (reserve for the Scheduled Caste) as such as being taken up together and being disposed of by this common judgment.

2. In Writ Petition No. 1175 (S/S) of 2003 petitioner-Daya Ram Singh has sought mandamus directing the respondent no. 1 to declare

the result of the selection held for the post of the Electrician relating to Vacancy Advertisement No. 02/03. Brief facts as alleged in this writ petition are that the petitioner is a member of Scheduled Caste and in response to the Advertisement No. 02/03 (to fill up the backlog of vacancies of Scheduled Castes, Scheduled Tribes and O.B.C.), submitted his application and appeared for the written test in 30.07.2003 and was interviewed on 31.07.2003. However, the result of the selection was withheld by the interview committee who allegedly could not selected some other person. And fresh interview notice given vide letter dated 15.07.2003 which is alleged to be illegal. Hence the writ petition. A counter affidavit was filed by the respondents in this case, in which it is admitted that the selection process did take place in response to Advertisement No. 02/03. it is also not disputed that the petitioner did appear in the written test and interview for the post of Electrician. However the reason for withholding the result has been denied stating in the counter affidavit that it was not because of any other candidate but because of the personnel department of Government of Uttar Pradesh stayed the recruitments. It is further restated in the counter affidavit that the petitioner cannot claim selection as of right.

3. In connected Writ Petition No. 842 (S/S) of 2004 the petitioner-Pawan Kumar has sought the writ in the nature of certiorari for quashing the impugned order dated 15th July 2004 by which fresh interview has been sought to be conducted in respect of the recruitment in question. Brief facts according to this writ petition are that this petitioner is also member of Scheduled Caste and has applied for the

post of Electrician (reserve for the Schedule Caste) in response to Advertisement No. 02/03. It is further alleged by this petitioner that he appeared in the written test on 30.7.2004 and thereafter on 31.7.2003 for interview. This petitioner has also alleged that the result of the test was withheld for the reason that the selection committee wanted to appoint some other person. According to this petition inviting only some of the candidates for interview is illegal, arbitrary and violative of Article 14 of the Constitution of India. In the petition another relief of mandamus for declaration of result has been sought. In the counter affidavit filed by the respondents in Writ Petition No. 842 (S/S) of 2004, it is not denied that the petitioner- Pawan Kumar appeared in written test and interview on 30.7.2003 and 31.7.2003 respectively but it is stated that this petitioner could not get selected for the reason that he failed to qualify the minimum requisite marks of 33% in the written tests. In this counter affidavit it is admitted that one member of selection committee withheld the marks allotted to the petitioner and walked out of the selection committee. It is also admitted that the result was withheld due to non-fulfillment of selection process.

4. I heard learned counsel for the petitioners of both the cases and the learned Sr. Standing Counsel and Ld. Standing Counsel for State of U.P. who represented the respondents in both the cases and perused affidavits, counter affidavits and rejoinder affidavit alongwith annexures annexed thereto in each of the above mentioned writ petitions. Apart from this, original record of the selection process was

also summoned and perused at the time of the arguments and after the perusal returned to the office concerned.

5. The short question for consideration before this court in both the cases is that whether the fresh interviews are wrongly and illegally being sought to be conducted in respect of the test in question vide letter-dated 15.7.2003.

6. Admittedly, the respondents vide advertisement no. 02/03 invited applications for fulfillment of the various post reserved for Scheduled Castes, Schedule Tribes and Other Backward Castes. It is also not disputed that one post of Electrician reserved for the Scheduled Castes was to be filled. It is also not denied that both the petitioners are members of Schedule Caste and they were candidates in the test held by selection committee. The disputed question relates to the point regarding withholding the result after the written test and interviews were over. The perusal of the original record summoned in the court shows that as many as mine candidates, namely, Ram Pal Singh, Pawan Kumar (petitioner of Writ Petition no.842/2004), Mahendra Singh Ravi, Daya Ram Singh (petitioner of Writ Petition No. 1175/2003), BahalSingh, Rakesh Kumar, Avtar Singh, Satya Prakash and Krishna Kumar applied for the post of Electrician out of these nine, Satya Prakash and Krishna Kumar did not appear either for written test or for the interview. The result sheet in the original record shows that all the three members signed the tabulation sheet of written test and practical out of the seven who appeared in the said test, Pawan Kumar (petitioner of Writ Petition no. 842/2004), Mahendra Singh Ravi and Avtar Singh

could not qualify the written test as their marks were less than 33% in the test. Rest of the candidates qualified the written test, namely, Ram Pal Singh, Daya Ram Singh (petitioner of Writ Petition No. 1175/2003), Bahal Singh and Rakesh Kumar. By means of the impugned order dated 15.7.2004 these four candidates have been sought to be interviewed again. In both the writ petitions this order has been challenged. As far as petitioner- Pawan Kumar is concerned since he has not qualified in the written examination as mentioned above he has no case to challenge the fresh interviews on the ground that he is left out. As far as the petitioner-Daya Ram Singh is concerned a relief as to declaration of result cannot be granted unless the selection process is completed by holding interviews as fresh as earlier Committee could not complete it is one of the member withdrew. It is true that all the candidates were interviewed earlier as the written test as well as interviews took place in successive days on 30.07.2003 and 31.07.2003. it is also admitted in para-6 of the counter affidavit filed in Writ petition no. 842/2004 that one of the members of Selection Committee withheld the marks of the candidates and walked out of the Selection Committee. As such the selection process could not be completed. In these circumstances holding interviews a fresh can not be said to be illegal or arbitrary, rather it is only option to fulfill the vacant post reserved for the Schedule Caste by completing the selection process through reconstituted Committee. Annexure CA-2 to the counter affidavit filed in the writ petition no. 842/2004 shows that Hari Prakash the member who withheld the marks and withdrew is replaced

by another Executive Engineer Raj Pal Singh. As to the reconstitution of the Selection Committee, there is not allegation of any partition or foul play.

7. In these circumstances in view of the discussions as above in the opinion of this court both the writ petition are liable to be dismissed. Accordingly both the writ petitions are dismissed with the observations that the respondents may hold fresh interviews to complete the selection process by inviting the four Schedule Caste candidates mentioned in order dated 15.7.2004 by fixing a fresh date for the interview. No order as to costs.

(Prafull C. Pant, J.)

Dt. 6th October, 2004
P. Bandhavakar